



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/950,025	09/12/2001	Shawn Wiederin	COS01007	1705
25537	7590	03/08/2010		
VERIZON PATENT MANAGEMENT GROUP 1320 North Court House Road 9th Floor ARLINGTON, VA 22201-2909			EXAMINER CHEUNG, MARY DA ZHI WANG	
			ART UNIT	PAPER NUMBER
			3694	
			NOTIFICATION DATE	DELIVERY MODE
			03/08/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@verizon.com

1 UNITED STATES PATENT AND TRADEMARK OFFICE

2
3
4 BEFORE THE BOARD OF PATENT APPEALS
5 AND INTERFERENCES
6

7
8 *Ex parte* SHAWN WIEDERIN
9

10
11 Appeal 2009-012683
12 Application 09/950,025
13 Technology Center 3600
14

15
16 Decided: March 4, 2010
17

18
19 Before WILLIAM F. PATE, III, LINDA E. HORNER, and
20 ANTON W. FETTING, *Administrative Patent Judges*.
21 FETTING, *Administrative Patent Judge*.

22
DECISION ON APPEAL

STATEMENT OF THE CASE

Shawn Wiederin (Appellant) seeks review under 35 U.S.C. § 134 (2002) of a final rejection of claims 2-6, 8, 9, 12-16, 18, 19, 22-26, 28, 29, 32-36, 38, 39, and 41-45, the only claims pending in the application on appeal.

This is the second time this application has come before this panel. We affirmed the Examiner in the earlier decision dated October 23, 2007. Subsequent to that decision, all of the independent claims were amended. The single reference that was applied in the Final Rejection under the earlier appeal is not applied in the instant Final Rejection under appeal. Thus, the prior art issues presented in the earlier appeal are no longer before us.

We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b) (2002).

SUMMARY OF DECISION¹

We AFFIRM.

THE INVENTION

The Appellant invented a way to allow a user to perform a transfer of currency or monetary funds from one on-line financial account to one or more on-line financial account(s). After a user's account profile is created, all the necessary steps to verify the profile, the account's fund availability,

¹ Our decision will make reference to the Appellant's Appeal Brief ("App. Br.," filed February 12, 2009) and Reply Brief ("Reply Br.," filed June 3, 2009), and the Examiner's Answer ("Ans.," mailed April 15, 2009), and Final Rejection ("Final Rej.," mailed August 19, 2008).

security related functions and debiting and crediting of the respective accounts can be initiated from a user device. (Specification 2:¶ 0004).

An understanding of the invention can be derived from a reading of exemplary claim 43, which is reproduced below [bracketed matter and some paragraphing added].

43. A method for performing a monetary transaction, comprising:

[1] receiving

payee identification information,
user information, and
amount information

from a wireless device associated with a user, [sic ;]

[2] identifying a first account associated with the user
based on the user information;

[3] prompting a payee device associated with the payee,
for information relating to a second account
associated with the payee
based on the payee identification information; and

[4] transferring funds based on the amount information
between the first account and the second account.

THE REJECTIONS

The Examiner relies upon the following prior art:

Sacks	US 2002/0016765 A1	Feb. 7, 2002
Kim	US 2005/0086164 A1	Apr. 21, 2005

Claims 12-16, 18-19, 22-26, 28-29, and 43-44 stand rejected under 35 U.S.C. § 102(e) as anticipated by Sacks.

Claims 2-6, 8-9, 32-36, 38-39, 41-42, and 45 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Sacks, Kim, and Official Notice.

ARGUMENTS

*Claims 12-16, 18-19, 22-26, 28-29, and 43-44 rejected under 35 U.S.C.
§ 102(e) as anticipated by Sacks.*

Claims 43 and 44 are the only independent claims and these are the only claims the arguments are directed to. As to each of these claims, the Appellant argues that Sacks does not describe receiving payee identification information, user information, and amount information from a wireless device associated with a user. Appeal Br. 11 and 16.

*Claims 2-6, 8-9, 32-36, 38-39, 41-42, and 45 rejected under 35 U.S.C.
§ 103(a) as unpatentable over Sacks, Kim, and Official Notice.*

Claims 42 and 45 are the only independent claims. These are the only claims the arguments are directed to. As to each of these claims, the Appellant argues that Sacks and Kim do not disclose or suggest receiving payee identification information, user information, and amount information from a wireless device associated with a user. Appeal Br. 21 and 27.

As to claim 42, the Appellant further argues that both Sacks and Kim fail to describe the user information identifying the wireless device, a first account associated with the user based on the user information including the received wireless device identification information, a second account associated with the payee based on the payee identification information. The Appellant further argues the references do not transfer funds based on the amount of information between the first account and the second account, and send a notification of the transfer of the funds to the wireless device. The notification includes an itemization of goods or services associated with

the transfer. The Appellant also contends that the Examiner's Official Notice does not remedy the deficiencies in the references. Appeal Br. 21.

As to claim 45, the Appellant further argues that the references do not describe identifying (1) a first account associated with a payer and (2) a second account associated with a payee, the identification based on the received monetary transaction information including the received device identification information. Appeal Br. 30.

ISSUES

The issue of whether the Examiner erred in rejecting claims 12-16, 18-19, 22-26, 28-29, and 43-44 under 35 U.S.C. § 102(e) as anticipated by Sacks turns on whether Sacks describes receiving payee identification information, user information, and amount information from a wireless device associated with a user.

The issue of whether the Examiner erred in rejecting claims 2-6, 8-9, 32-36, 38-39, 41-42, and 45 under 35 U.S.C. § 103(a) as unpatentable over Sacks, Kim, and Official Notice turns on the resolution of the first issue, and whether the references describe or make it predictable to add the further limitations argued by the Appellant.

FACTS PERTINENT TO THE ISSUES

The following enumerated Findings of Fact (FF) are believed to be supported by a preponderance of the evidence.

Facts Related to the Prior Art

Sacks

01. Sacks is directed to processing, at a third-party site, a buyer's payment for an electronically conducted transaction with an online seller. Sacks ¶ 0001.

02. Sacks describes implementing its buyer side device with a handheld computer. Sacks ¶ 0014 and ¶ 0019. Its data transmissions use electromagnetic carrier waves. Sacks ¶ 0015. The data from this device may be a wireless phone using the wireless access protocol. Sacks ¶ 0019.

03. Sacks transmits product information such as item identifier, price and quantity purchased, and seller information such as identifier and address from the buyer's device to a third party. Sacks ¶ 0017. The user's identifier is transmitted to the third party payment processor. ¶ 0023.

04. Sacks' buyer information is transmitted to the third party payment processor. Sacks ¶ 0021. This is done to transfer funds from the buyer's account to the seller's account. Sacks ¶ 0024.

05. The buyer's account is linked to the buyer's identifier, email address or phone number. Sacks ¶ 0024.

06. The seller's identifier and account number is also passed to the third party payment processor by the buyer's connection. Sacks ¶ 0024.

Kim

07. Kim is directed to using a mobile phone as a tool to pay a charge of goods or service rendered through approval of a mobile phone network. Kim ¶ 0002.

08. Kim describes automatically determining the caller's identity by the phone number and phone device a call originates from. Kim ¶¶ 0025-0028.

PRINCIPLES OF LAW

Anticipation

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). "When a claim covers several structures or compositions, either generically or as alternatives, the claim is deemed anticipated if any of the structures or compositions within the scope of the claim is known in the prior art." *Brown v. 3M*, 265 F.3d 1349, 1351 (Fed. Cir. 2001). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, *i.e.*, identity of terminology is not required. *In re Bond*, 910 F.2d 831, 832 (Fed. Cir. 1990).

Obviousness

A claimed invention is unpatentable if the differences between it and the prior art are “such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill

in the art.” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007); *Graham v. John Deere Co.*, 383 U.S. 1, 13-14 (1966).

In *Graham*, the Court held that that the obviousness analysis is bottomed on several basic factual inquiries: “[(1)] the scope and content of the prior art are to be determined; [(2)] differences between the prior art and the claims at issue are to be ascertained; and [(3)] the level of ordinary skill in the pertinent art resolved.” *Graham*, 383 U.S. at 17. *See also KSR*, 550 U.S. at 406. “The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” *KSR*, 550 U.S. at 416.

ANALYSIS

Claims 12-16, 18-19, 22-26, 28-29, and 43-44 rejected under 35 U.S.C. § 102(e) as anticipated by Sacks.

The Appellant argues that Sacks does not describe receiving payee identification information, user information, and amount information from a wireless device associated with a user. This argument is answered by the plain reading of Sacks.

As to a wireless device, Sacks describes implementing its buyer side device with a handheld computer using electromagnetic carrier waves. The data from this device may be a wireless phone using the wireless access protocol. FF 02.

As to receiving payee identification information, user information, and amount information, Sacks transmits the seller’s identifier to the payment processor from the buyer’s device and transmits the user identifier and quantity and price information, also from the buyer’s device. FF 03 & 06.

1 In Sacks, the buyer corresponds to the claimed user and the seller
2 corresponds to the claimed payee. The seller is the party to whom payment
3 is made and is therefore the payee.

4 *Claims 2-6, 8-9, 32-36, 38-39, 41-42, and 45 rejected under 35 U.S.C.*
5 *§ 103(a) as unpatentable over Sacks, Kim, and Official Notice.*

6 The Appellant repeats the argument from the novelty rejection and our
7 analysis from the novelty rejection is applicable to these claims.

8 Claim 42 further requires the user information to include information
9 identifying the wireless device, and that the payment processor identifies a
10 first account associated with the user based on the user information
11 including the received wireless device identification information, identify a
12 second account associated with the payee based on the payee identification
13 information, transfer funds based on the amount information between the
14 first account and the second account, and send a notification of the transfer
15 of the funds to the wireless device, the notification to include an itemization
16 of goods or services associated with the transfer. The Appellant argues this
17 is not described by the art. Appeal Br. 21.

18 In Sacks, the payment processor identifies the user and seller accounts
19 based on identity information transmitted to the payment processor by the
20 buyer's device. FF 03 - 06. The amount of funds based on the transaction
21 amount is transferred from the buyer's account to the seller's account. FF
22 04. The buyer's account may be identified by the buyer's phone number.
23 FF 05. Kim describes automatically retrieving the phone number and phone
24 device identifiers from an originating call to identify a customer. FF 08.
25 The Examiner found that one of ordinary skill would have known to use

Kim's automatic phone identifier retrieval to find Sacks' phone number identifier for greater assurance of validity. Ans. 6. The Examiner took official notice of the notoriety and desirability of presenting an itemization of goods or services associated with the transfer. Ans. 6. We agree that such an itemization, conventionally referred to as an invoice, is a standard practice in commerce and therefore a predictable practice with Sacks. We also agree that the advantages of automated phone number retrieval described by Kim made its use with Sacks predictable.

Claim 45 further requires identifying that the accounts associated with a payer and a payee be based on the received transaction information including the received device identification information. The Appellant argues this is not described by the art. Appeal Br. 30. As we found *supra*, the phone number is an identifier for the buyer's account. The claim does not specify the manner in which the buyer's device is identified, and the phone number of a calling device is widely regarded as a means for identifying that device. Further, Kim describes using the phone device identifier as an additional mechanism for identifying a customer. FF 08.

CONCLUSIONS OF LAW

The Examiner did not err in rejecting claims 12-16, 18-19, 22-26, 28-29, and 43-44 under 35 U.S.C. § 102(e) as anticipated by Sacks.

The Examiner did not err in rejecting claims 2-6, 8-9, 32-36, 38-39, 41-42, and 45 under 35 U.S.C. § 103(a) as unpatentable over Sacks, Kim, and Official Notice.

DECISION

To summarize, our decision is as follows.

- The rejection of claims 12-16, 18-19, 22-26, 28-29, and 43-44 under 35 U.S.C. § 102(e) as anticipated by Sacks is sustained.
- The rejection of claims 2-6, 8-9, 32-36, 38-39, 41-42, and 45 under 35 U.S.C. § 103(a) as unpatentable over Sacks, Kim, and Official Notice is sustained.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

mev

Address

VERIZON
PATENT MANAGEMENT GROUP
1320 North Court House Road
9th Floor
ARLINGTON VA 22201-2909